IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 26068 of 2006(C)

PETITIONER:

PREMARAJAN KOONKARAN, AGED 57,
S/O. GOVINDAN K., WORKING AS REGIONAL OFFICER,
COIR BOARD, REGIONAL OFFICE, KANNUR.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY
SMT.THANKOM.G
SRI.E.M.MURUGAN

RESPONDENTS:
---

1. UNION OF INDIA,
MINISTRY OF SSI & ARI, UDYOG BHAVAN,
NEW DELHI-110 011.

2. THE SECRETARY TO THE GOVERNMENT OF
INDIA, MINISTRY OF SSI & ARI, UDYOG BHAVAN,
NEW DELHI-110 011.

3. THE SECRETARY,
COIR BOARD, HEAD OFFICE, ERNAKULAM.

4. SHRI. M.KUMARASWAMI PILLAI,
PRESENTLY WORKING AS DEPUTY DIRECTOR,
COIR BOARD, HEAD OFFICE, ERNAKULAM.

BY ADV. JOHN VARGHESE, ASST.SOLICITOR GENERAL FOR R1 TO R3
ADV. SRI.O.V.RADHAKRISHNAN (SR.) FOR R4
SMT.K.RADHAMANI AMMA
SRI.ANTONY MUKKATH
SRI.K.V.JOY
SRI.K.RAMACHANDRAN (THYKOODAM)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT.P1: A TRUE PHOTOSTAT COPY OF THE OFFICE ORDER NO.40 DATED 25.4.2006 WAS ISSUED BY THE 3RD RESPONDENT

EXHIBIT.P2: A TRUE PHOTOSTAT COPY OF THE 2ND OFFICE ORDER NO.45 DATED 19.05.2006 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT.P3: A TRUE PHOTOSTAT COPY OF THE REPRESENTATION BEFORE THE 3RD RESPONDEN DATED 30/09/2006.

EXHIBIT.P4: A TRUE PHOTOSTAT COPY OF THE APPEAL PREFERRED BY THE PETITIONER DATED 30.9.2006

RESPONDENT'S EXHIBITS:

EXHIBIT.R1(a): TRUE COPY OF THE OFFICE ORDER NO.89 DATED 28.09.2006 ISSUED BY THE SECRETARY, COIR BOARD.

EXHIBIT.R1(b): TRUE COPY OF THE CHARGE ASSUMPTION REPORT OF THE 4TH RESPONDENT DATED 04-10-2006

EXHIBIT.R4(a): PHOTOCOPY OF THE ORDER NO.89 DATED 28.09.2006 OF THE 3RD RESPONDENT.

(TRUE COPY)

J.M.JAMES, J.

- - - - - - - - - - - - - - - - - - - -

W.P.(C) No. 26068 of 2006 (C)

- - - - - - - - - - - - - - - - - - - -

Dated this the 31st day of January, 2007

J U D G M E N T

The writ petitioner is before this Court challenging his transfer from Kannur, in Kerala to Rajamundiri in Andhra Pradesh. It is contended that the petitioner is the seniormost person in the post of Regional Officer and the third respondent, Secretary, had effected his transfer without considering the norms that are being followed while effecting transfers and postings, the junior persons being considered for transfer to distant places, particularly, out of the state.

2. The fourth respondent, as could be seen from Exhibit R1(b) had assumed charge of the office of the Regional Officer of the Coir Board at Kannur, with effect from the forenoon of 04/10/2006. During the pendency of this matter, it was submitted that the fourth respondent was hospitalised. However, the counsel for the fourth respondent submits that he had been discharged from the hospital and he is at duty point from 30/01/2007 onwards.

3. The learned Assistant Solicitor General submits that because of the order of stay of transfer granted by this Court, and extended upto 31/01/2007, the writ petitioner as well as the fourth respondent are working in the same office. Further submission is that the person at Rajamundiri has been relieved from duty on 30/09/2006, on superannuation and, therefore, there is no officer on duty in the office, at Rajamundiri.

4. Exhibit P3 is a representation dated 30/09/2006, of the writ petitioner to the third respondent and the same having been received by the third respondent on 03/10/2006. In Exhibit P3, the writ petitioner had narrated the difficulties which he faces and the necessity of he being not disturbed from the present station, Kannur. The same had not been considered so far.

5. The writ petitioner also filed Exhibit P4 appeal before the second respondent on 30/09/2006. The same is also pending. The allegations made in Exhibit P4, as against the third respondent, is of bias and favouritism in favour of the fourth respondent. In such circumstances, a direction to the

third respondent to consider and dispose of Exhibit P3 representation, preferred before him would not be just and proper.

6. The learned counsel appearing for the petitioner had made vehement arguments in line with the grounds advanced in Exhibit P4 appeal, which is pending before the second respondent. Such type of facts, involving the transfer and postings of an employee, cannot be decided unless there are supporting circumstances regarding the manifest bias and favouritism shown by the establishment in favour of another employee. This can only be analysed by the concerned authority, while considering the appeal.

7. In view of the above facts, I direct the second respondent to consider Exhibit P4 appeal preferred by the writ petitioner, within one month from the date of receipt or production of a certified copy of this judgment before him. If the writ petitioner requests that he should also be heard, before the disposal of Exhibit P4 appeal, an opportunity shall be given to him by the second respondent. The fourth respondent had already assumed charge at Kannur. As I have directed the

second respondent to consider the appeal preferred by the writ petitioner, it would not be proper on the part of this Court to make any observations on the merit of the matter. The writ petitioner is directed to join at Rajamundiri, where he is transferred, within two weeks from today.

This writ petition is closed as above.

(J.M.JAMES)
Judge

ms